



# ADVISORY BODIES IN THE CLIMATE GOVERNANCE SYSTEM OF UKRAINE: A EUROPEAN MODEL FOR UKRAINE

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# ABBREVIATIONS

EEA	European Environment Agency
European Scientific Advisory Board	European Scientific Advisory Board on Climate Change
European climate law	Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing a framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EC) 2018/1999 (the "European Climate Law")
CABs	consultative, advisory and other auxiliary bodies on climate change issues
CEBs	Central Executive Bodies
Climate Law of Ukraine; Law	Law of Ukraine "On the Basic Principles of the State Climate Policy"
coordinating CAB in the field of climate change	a consultative, advisory or other auxiliary body on climate change established by the Cabinet of Ministers of Ukraine to coordinate the activities of executive authorities specified in Article 5 of the Law of Ukraine "On the Basic Principles of the State Climate Policy" on the implementation of the state climate policy, fulfillment of Ukraine's international commitments on climate change and preservation of the ozone layer
Commission	Interagency Commission on Climate Change and Ozone Layer Preservation
IPCC	Intergovernmental Panel on Climate Change
Scientific and Expert Council; Council	Scientific and Expert Council on Climate Change and Protection of the Ozone Layer

# INTRODUCTION

In 2024, the Parliament adopted the Law of Ukraine “On the Basic Principles of the State Climate Policy”, which laid the foundation for the modern architecture of climate governance in Ukraine, the principles of formation and implementation of the state climate policy. One of the principles is the scientific validity of such a policy. Therefore, “decisions made within the framework of the state climate policy, policies and measures to mitigate and adapt to climate change shall be based on current scientific research, modeling and analysis of climate change and public health data.”<sup>1</sup>

To ensure scientific substantiation of activities aimed at achieving the goals of the state climate policy, its formation and implementation, the Law provides for the creation of a special entity among advisory and consultative bodies - the Scientific Expert Council on Climate Change and Ozone Layer Preservation. The Law also laid down general approaches to its activities. Ukraine faces the task of finalizing the legal status of the Council, its functions and tasks, the procedure for its formation, and most importantly, the establishment of the Council and launching its activities, thus strengthening the scientific and expert contribution to the formation and implementation of the state climate policy.

In fact, the Law demonstrated the irreversibility of Ukraine’s European integration intentions by implementing the requirements of the European Climate Law into the national legal framework.<sup>2</sup> Thanks to the latter, the European Scientific Advisory Board on Climate Change was established to strengthen scientific support for climate policy at the EU level, and member states are encouraged to establish relevant bodies at the national level. In some EU member states, scientific advisory bodies had been already in place, and in some countries, they were established after the adoption of the European Climate Law. The experience of the EU and other countries is important for Ukraine, which is implementing such an institutional mechanism for scientific support of its climate policy for the first time.

In this document, we provide an overview of the experience of the EU and other countries in the formation and operation of scientific advisory bodies in climate policy, their institutional structure, analyze the legal framework for the functioning of advisory and scientific advisory bodies in the climate governance architecture of Ukraine, and conceptual approaches to the establishment and operation of the Scientific Expert Council on Climate Change and Protection of the Ozone Layer.



<sup>1</sup> On the basic principles of state climate policy. Law of Ukraine of October 8, 2024, No. 3991-IX. <https://zakon.rada.gov.ua/laws/show/3991-20#Text>

<sup>2</sup> Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law'). [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32021R1119#enc\\_1](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32021R1119#enc_1)

# Chapter 1. Experience of the EU and the States in Establishing and Functioning of Advisory and Scientific Advisory Bodies on Climate Change

The European Scientific and Advisory Board on Climate Change was established at the EU level as an advisory body closely linked to the European Environmental Agency. Nevertheless, it maintains its institutional and analytical independence to provide objective, science-based recommendations to achieve climate neutrality in the EU by 2050.

National advisory bodies on climate change, which are officially established within individual countries, provide governments with science-based recommendations on climate policy. These bodies perform a similar function to the European Scientific Advisory Board in the context of individual countries, but they may have different names, structures, and degree of independence.

## 1.1. EUROPEAN SCIENTIFIC ADVISORY BOARD ON CLIMATE CHANGE

**The legal framework for the** European Scientific and Advisory Board on Climate Change is set out in the European Climate Law. Thanks to its independence and scientific and technical expertise, it complements the work of the European Environment Agency and is independent in the performance of its tasks. Its mission should avoid any overlap with the IPCC's mission at the international level.<sup>3</sup>

The independence of the European Scientific Advisory Board is manifested in several key aspects. Its members are appointed and hold office independently of the Member States and the institutions of the Union (Article 10a (4) of Regulation No. 401/2009). The Council adopts its own rules of procedure and develops its annual work program.

The European Scientific Advisory Board is a transparent body and publishes its reports. It may take into account, where possible, the work of national advisory bodies on climate change (Article 3(3) of Regulation 2021/1119).

**The tasks of** the European Scientific Advisory Board are defined by the European Climate Law. The Council provides independent scientific advice and prepares reports on EU climate measures, climate targets and indicative greenhouse gas budgets (limits), as well as their consistency with European climate legislation and the EU's international obligations under the Paris Agreement. In particular, its tasks include:

- Reviewing the latest scientific findings of IPCC reports and scientific climate data, in particular with regard to information relevant to the EU;

<sup>3</sup> European Advisory Board on climate change. Legal Mandate. <https://climate-advisory-board.europa.eu/about/legal-mandate>

- Providing scientific advice and publishing reports on existing and proposed EU measures, climate targets and greenhouse gas limits, and their alignment with the objectives of Regulation (EU) 2021/1119 and the EU's international commitments under the Paris Agreement;
- Facilitating the exchange of independent scientific knowledge in the field of modeling, monitoring, advanced research and innovation that contribute to reducing emissions or increasing removals of greenhouse gases;
- Identifying actions and opportunities needed to successfully achieve the EU's climate goals;
- Raising awareness of climate change and its impacts and stimulating dialogue and cooperation between scientific bodies within the EU, complementing existing work and efforts.

For example, to support the European Commission's contribution to the preparation of the legislative proposal for the EU's 2040 climate target, in 2023 the European Science Advisory Board provided recommendations on how to ensure consistency, transparency and alignment with EU approaches.<sup>4</sup>

At the beginning of each year, the European Scientific Advisory Board publishes its annual work program, which reflects the activities to fulfill specific tasks.

The European Scientific Advisory Board operates in accordance with procedural rules. The Council seeks to adopt scientific recommendations on the basis of consensus, while other decisions are made by a simple majority of votes of all members of the Council entitled to vote.

The European Scientific Advisory Board is composed of 15 research experts whose competence covers a wide range of relevant disciplines. No more than two members of the Council may have the nationality of the same Member State (Article 10a, paragraph 2 of Regulation No. 401/2009).

The members of the European Scientific Advisory Board must meet certain criteria, which are defined in Art. 10a para. 3 of Regulation No. 401/2009. The criteria are:

- scientific achievements;



<sup>4</sup> Setting climate targets based on scientific evidence and EU values Initial advice to the European Commission on an EU-wide 2040 climate target and a greenhouse gas budget for the 2030–2050 period. European Scientific Advisory Board on Climate Change. Published 16 Jan 2023. <https://climate-advisory-board.europa.eu/reports-and-publications/setting-climate-targets-based-on-scientific-evidence-and-eu-values-initial-recommendations-to-the-european-commission>

- experience in conducting scientific assessments and providing scientific advice in the areas of expertise;
- extensive experience in climate and environmental sciences or other scientific fields relevant to the achievement of the Union's climate goals;
- professional experience in an interdisciplinary environment in an international context.

Members of the European Scientific Advisory Board are appointed for a term of four years, renewable once, following an open, fair and transparent selection procedure. In selecting the members of the Board, the EEA Board seeks to ensure a diversity of disciplinary and sectoral expertise, as well as gender and geographical balance. The European Scientific Advisory Board elects a Chairperson from among its members for a term of four years. Voting is conducted in secret and can take place, among other things, through online tools.

**The European Scientific and Expert Council is independent of the Member States, EU institutions and bodies, and its work is supported by the EEA Secretariat. The Council's activities are funded from the EU budget through the European Environment Agency. Its members are independent experts who do not represent any state, political party or organization. The Advisory Board does not coordinate its conclusions with any EU institution or body, independently selects research topics and publishes its conclusions in the public domain.**

## **1.2. TYPES OF NATIONAL ADVISORY BODIES ON CLIMATE CHANGE**

**According to Article 3 (Section 4) of EU Regulation 2021/1119, in the context of strengthening the role of science in climate policy, each Member State is invited to establish a national climate advisory body responsible for providing expert scientific advice on climate policy to the relevant national authorities as provided by the Member State concerned. The general approach laid down in the EU regulation is the voluntary establishment of the relevant entity, i.e. the right of states, not the obligation, to establish such a body.**

The European Climate Law outlines certain approaches to the establishment of such an entity by an EU Member State. In particular:

- The state is not required, but encouraged to establish the relevant body;
- The main purpose of establishing such a body is to strengthen the role of science in the state's climate policy;
- The main powers of such body include provision of expert scientific advice on climate policy. The consultations are provided to the relevant national authorities, which includes the possibility of providing consultations to other stakeholders in the national climate governance architecture;
- The incorporation form of such body is the competence of the state. The European Climate Law does not require the establishment of a national scientific council, but uses the generalized term "climate advisory body";
- The entity is created at the national level.

The only obligation imposed on the state is to notify the EEA of the establishment of an advisory body by the state responsible for providing expert scientific advice on climate policy.

**National advisory bodies on climate change differ from country to country. Their establishment, tasks and activities depend on the national context. Differences can be seen in the requirements for the composition of such bodies, their relationship with the government, their functional purpose, the way they are formed, etc.**

Advisory bodies on climate change have different roles and *functional purpose*, including functioning as:

- 1) “oversight body” - regularly conducts an independent assessment of the government’s actions (or inaction) on climate change. This assessment should be made public, which increases the transparency of climate policy and promotes government accountability for the progress or lack thereof in the state climate policy. The supervisory function is related to the “mandate to demonstrate, but not to intervene” (“barking, not biting”). Such activities are related to the monitoring function, which is to observe, analyze and evaluate the effectiveness of climate policy implementation. This mandate is advisory in nature, with no coercive elements.
- 2) “advisor/consultant” - its role is to provide proposals for the development and/or implementation of climate policy based on the most up-to-date scientific knowledge and information.
- 3) “mediator/coordinator” (“convenors”) - their main role is to regularly reach out to stakeholders and engage them in climate policy making.

Some advisory bodies have all the functions, while others have only certain functions.

The strength of an advisory body’s status depends on the specifics of its mandate, such as the frequency and depth of its assessments, its access to resources, and the overall visibility of its work in the media. One of the key indicators of influence is whether the government is legally obliged to respond to its findings and recommendations. Thus, depending on the *need for the government to respond to the recommendations of the advisory body*, there are countries where:

- 1) the government is obliged to respond to the recommendations of the advisory body, which contributes to its actual influence (Denmark, France, the United Kingdom, Germany);
- 2) there is no obligation of the government to respond to the recommendations of the advisory body.

Climate change advisory bodies also vary depending on *their composition* and their members may include:

- 1) scientists (must have a scientific qualification),
- 2) recognized experts in various fields,
- 3) business representatives,
- 4) representatives of the public, trade unions, etc,
- 5) representatives of public authorities.

In some countries, such bodies are composed exclusively of scientists, while in other countries, representation on advisory bodies is broader and includes representatives from a variety of stakeholders.

Regardless of how the composition of advisory bodies is formed, their activities always involve the involvement of stakeholders. The ways of engagement vary and depend on the range of actors with whom the advisory bodies cooperate, but they have a common goal - to provide scientific and expert proposals and recommendations to inform the development of public policies in the field of climate change. The public often plays an important role in exerting external pressure, complementing the work of the advisory body.

The number of members in national advisory bodies varies from 4 to 15 members, but mostly the bodies consist of 8 to 11 members. Most councils have an odd number of members to avoid an equal distribution of votes in decision-making. All councils have a chairperson and sometimes up to 2 vice-chairs.<sup>5</sup>

Members are usually appointed by the government, often for a limited term (3-5 years), and in some countries, the possibility of re-election is limited (to a maximum of one second term). In some cases, other members of the council (Finland) or another scientific institution (Switzerland) are involved in the selection process. *Members may be appointed:*



- by the government after the selection of candidates by an advisory body (Denmark, Sweden);
- by the government after selection of candidates by the wider scientific community and an advisory body (Finland);
- by the government after the selection of candidates by the chairman of the advisory body (France);
- appointment/election of members by a scientific institution, academy, institute, etc. (Switzerland).

Most climate change advisory bodies rely on administrative and executive support from staff or a secretariat, especially in cases where members are not paid or have other primary occupations. Funding for advisory bodies comes directly from governments. When it comes to *the use of resources*, some bodies have: a) full autonomy in spending; while b) others have less flexibility, requiring approval of the use of funds by the government, or the possibility of using them only for purposes specifically defined by the government. It is worth noting that budgetary and resource constraints are recognized as factors that impede the involvement of the necessary number of staff to support and carry out the overall work of the advisory body.<sup>6</sup>

<sup>5</sup> Evans, Nick; Matthias Duwe (2021): Climate governance systems in Europe: the role of national advisory bodies. Ecologic Institute, Berlin; IDDRI, Paris. <https://www.ecologic.eu/sites/default/files/publication/2021/Evans-Duwe-Climate-governance-in-Europe-the-role-of-national-advisory-bodies-2021-Ecologic-Institute.pdf>

There are four types of advisory bodies that differ depending on their *relationship with the government* - “independent scientific councils”, “internal/structural scientific advisory bodies”, “platforms for interaction with stakeholders”, and “stakeholder roundtables and/or interagency roundtables”.<sup>7</sup>

**Type 1: Independent scientific councils** function as independent bodies that monitor and provide opinions on the adequacy of climate action at the national level. These councils also play a key role as policy advisors, frequently and periodically invited by government agencies to provide recommendations that guide the development of national climate policy. In some countries, they are established with significant “soft powers” or, due to the reputation of their members, can influence decision-making in the climate governance system. For example, in the United Kingdom, the committee has a direct influence on the country’s long-term goals and advises the government before such goals can be changed.

There are two types of councils:

- An independent scientific climate council; such a council is an independent, scientific advisory body that focuses only on climate change issues;
- An independent scientific council on the environment and/or sustainable development; the council is also an independent scientific and expert body with a broader mandate, including climate issues.

As a rule, independent scientific councils consist exclusively of scientists. In some countries, the councils also include representatives of the authorities. In a few cases, the functions of scientific councils are performed by independent institutions.

**Type 2: Internal/structural scientific advisory bodies** are established within the structure of a government agency, in addition to the national authorities responsible for climate change issues. They are a governmental advisory body (or subsidiary organization) dedicated to climate analysis and policy. This format of advisory bodies (their connection to government agencies) does not necessarily jeopardize the credibility of their results (after all, all Type 1 independent scientific councils are supported by public funding). Such bodies also contribute to the government’s efforts to develop an effective national climate policy.

As in the case of independent scientific councils, there are two types of internal/structural scientific advisory bodies - 1) bodies that are dedicated exclusively to climate issues; and 2) bodies for which climate change is only part of their broader mandate, e.g., within the framework of environmental issues, sustainable development.

**Type 3: Stakeholder engagement platforms.** The key feature of this type of body is defined by purpose of their work, which is to involve a wide range of stakeholders (such as representatives of business or trade organizations, civil society organizations, local officials, and even the general public) in the development and implementation of national

<sup>6</sup> Cynthia Elliott, Clea Schumer, Katherine Ross, Juan Carlos Altamirano, Kelly Levin, Rebecca Gasper, and Kati Kulovesi. World Resources Institute (WRI) (2021). Climate Advisory Bodies: Experiences and Approaches for Effective Climate Change Policy. <https://www.climatecouncils.org/wp-content/uploads/2022/05/WRI-Climate-Advisory-Bodies-Report-Final-May-2022.pdf>

<sup>7</sup> Evans, Nick; Matthias Duwe (2021): Climate governance systems in Europe: the role of national advisory bodies. Ecologic Institute, Berlin; IDDRI, Paris. <https://www.ecologic.eu/sites/default/files/publication/2021/Evans-Duwe-Climate-governance-in-Europe-the-role-of-national-advisory-bodies-2021-Ecologic-Institute.pdf>

climate policy. The platforms are non-governmental forums that provide opportunities for discussion, exchange of views and input from civil society, the private sector and local governments. They are created as stakeholder engagement platforms for climate policy and stakeholder engagement platforms for environmental and sustainable development policy.

**Type 4: Stakeholder roundtables and/or interagency roundtables** are held within or affiliated with the government, so they do not have a fully independent or autonomous monitoring function, often functioning as stakeholder engagement platforms, but with the involvement of government officials from a number of ministries and agencies. Roundtables (on climate change or on environment and sustainable development) act to share experiences between government officials, stakeholders, and scientific experts, often involving a certain degree of interagency coordination.

**It is important to note that different types of climate change advisory bodies that provide scientific support to national policy-making can operate simultaneously in one country, with different composition and leverage. For example:**

- The UK has the Climate Change Committee<sup>8</sup> and the Internal Science Advisory Council of the Department for Environment, Food and Rural Affairs<sup>9</sup>;
- Sweden has the Climate Policy Council<sup>10</sup>, the internal scientific advisory body on environment/sustainable development<sup>11</sup>, Swedish Research Council<sup>12</sup>, and the Stakeholder Engagement Platform for Climate Policy<sup>13</sup>;
- Germany has the Independent Scientific Climate Council<sup>14</sup>, German Advisory Council on global change<sup>15</sup> German Advisory Council on the Environment<sup>16</sup>, as well as different platforms can be formed, for example, on the basis of scientific institutions, within the framework of various projects, etc;<sup>17</sup>
- In Poland, there are internal scientific advisory bodies on environment/sustainable development (the State Environmental Protection Council,<sup>18</sup> and the State Nature Protection Council<sup>19</sup>) and the Interagency Climate Roundtable<sup>20</sup> with the participation of stakeholders.<sup>21</sup>



<sup>8</sup> Climate Change Committee. <https://www.theccc.org.uk/>

<sup>9</sup> DEFRA Science Advisory Council. <https://www.gov.uk/government/organisations/science-advisory-council/about>

<sup>10</sup> Sweden Climate Policy Council. <https://www.klimatpolitiskaradet.se/en/>

<sup>11</sup> FORMAS. <https://www.devex.com/organizations/swedish-research-council-formas-101879>

<sup>12</sup> Swedish Environmental Research Institute. <https://www.ivl.se/english/ivl/our-offer/our-focus-areas.html>

<sup>13</sup> Swedish Citizen's Assembly on Climate. <https://www.wedonthavetime.org/events/climatecitizenassembly#:~:text=Over%20a%20total%20of%20nine,the%20council%20reflects%20Sweden's%20population>

<sup>14</sup> The Council of Experts on Climate Change. <https://www.expertenrat-klima.de/en/about-us/>

<sup>15</sup> German Advisory Council on Global Change. <https://www.wbgu.de/en/the-wbgu/mission>

<sup>16</sup> German Advisory Council on the Environment. [https://www.umweltrat.de/EN/home/home\\_node.html](https://www.umweltrat.de/EN/home/home_node.html)

<sup>17</sup> Prognos. <https://www.prognos.com/en/who-we-are>

<sup>18</sup> Państwowa Rada Ochrony Środowiska. <https://bip.mos.gov.pl/organy-doradcze/panstwowa-rada-ochrony-srodowiska/>

<sup>19</sup> Państwowa Rada Ochrony Przyrody. <https://bip.mos.gov.pl/organy-doradcze/panstwowa-rada-ochrony-przyrody/>

<sup>20</sup> Rady Klimatycznej przy UN Global Compact Network Poland. <https://edukacjaklimatyczna.org.pl/o-radzie-klimatycznej/>

<sup>21</sup> Evans, Nick; Matthias Duwe (2021): Climate governance systems in Europe: the role of national advisory bodies. Ecologic Institute, Berlin; IDDRI, Paris. <https://www.ecologic.eu/sites/default/files/publication/2021/Evans-Duwe-Climate-governance-in-Europe-the-role-of-national-advisory-bodies-2021-Ecologic-Institute.pdf>.

Thus, the status and nature of advisory bodies on environmental and climate issues can be very diverse, and the number of such bodies or organizations performing similar functions cannot be limited either. The principle of independence of their activities is fundamental even when such bodies are established within the structure of relevant ministries, since it is obvious that there is no point in the work of an advisory body if such a body is biased and dependent on the decisions of the government or political parties. The same applies to the issue of funding. Despite the fact that such advisory bodies depend on state funding, the principle of scientific validity of their decisions is a priority when they formulate certain conclusions and proposals for public policy. Some bodies and organizations may not depend on public funding and raise resources for their activities independently by seeking grant assistance, while others have sufficiently diversified sources of funding, which is also not prohibited or restricted by EU requirements.

### **1.3. LEGAL STATUS OF NATIONAL ADVISORY BODIES ON CLIMATE CHANGE (BASED ON THE EXAMPLE OF SELECTED COUNTRIES)**

**The establishment of national advisory bodies on climate change has a long history - from their creation under the relevant governmental bodies, with a lower degree of independence and autonomy, to their evolution into independent bodies that enjoy considerable authority and influence on climate policy making. In some countries, transitional stages of the creation and development of advisory bodies were envisaged, which contributed to the acquisition of experience, authority and weight in society.**

The paper analyzes the experience of countries that, on the one hand, can be a useful example for Ukraine, and, on the other hand, illustrates different approaches to the establishment and functioning of climate change advisory bodies in different countries. In particular, the approaches to the establishment and functioning of such bodies in the United Kingdom, the Federal Republic of Germany, and Finland are described. The UK's experience in establishing and operating a climate change advisory body is one of the most successful in the world. Finland's experience, unlike the UK, is distinguished by the fact that the Finnish Climate Change Panel has a much smaller impact, focusing on analytical support for climate policy and active participation in maintaining public dialogue. Germany's experience is interesting because of the existence of various advisory bodies in the field of formulating environmental and climate policy and monitoring its implementation.

#### **UK Climate Change Committee**

The UK Climate Change Committee is an independent, statutory body established under the Climate Change Act 2008. As a government-funded institution, it is committed to openness and transparency. The Committee has significant leverage in shaping climate policy, given that the government is obliged to respond to the Committee's expert opinions.<sup>22</sup>

The Committee's objective is to advise the UK government on greenhouse gas emission targets and to report to the UK Parliament on progress made in reducing greenhouse gas emissions and preparing for and adapting to the effects of climate change. The Climate Change Committee was established to ensure that the assessment of progress and recommendations on climate change are based on scientific evidence and independently evaluated.

<sup>22</sup> About the Climate change committee (UK) <https://www.theccc.org.uk/about/>

The strategic priorities of the UK Climate Change Committee are:

- providing impartial advice on greenhouse gas emissions targets and climate change adaptation;
- monitoring progress in reducing greenhouse gas emissions, achieving carbon budgets and adapting to climate change;
- conducting independent analysis of climate change science, economics and policy;
- engaging with stakeholders to promote understanding and inform the evidence-based debate on climate change and its impacts.

The committee's findings, analysis, and underlying data are available in the publications section of its website.<sup>23</sup> The committee's recommendations are often referred to in the parliaments and assemblies of the United Kingdom, Northern Ireland, Scotland and Wales. They are usually a source of information for business and industry, academia, national and international media, and the public. In addition, ministers can request the committee's advice on specific issues and topics.

Visibility and credibility of the advisory body is important for its influence, including the availability of websites, organization of public events, access to reports, etc. In the UK, there is a Memorandum of Understanding between the Climate Change Committee and the government to facilitate the exchange of data and information. The impact of the recommendations made by the committee is supported by a healthy working relationship with government, which is an example of an integrated approach to activities where the advisory body and relevant government groups interact frequently, making the body a permanent part of the national climate change discourse. Therefore, when the committee's research and recommendations are published, the government is ready to quickly accept them as credible and valuable.

The UK has a separate Climate Change Committee (6 members) and a Climate Change Adaptation Committee (7 members), as well as 4 expert advisors<sup>24</sup> as of today. The Adaptation Committee is a separate unit within the Climate Change Committee. The members of the committee are independent experts from science, academia and business who are not nominated by political parties. They are highly reputable and respected in the scientific community.<sup>25</sup> In preparing the reports, the committee engages a wider range of experts from academia, think tanks, etc.

The Committee on Climate Change and the Committee on Climate Change Adaptation work on the basis of a Framework Document,<sup>26</sup> which defines their goals, rights and responsibilities. The Climate Change Committee is classified as a central government organization, which is a non-departmental public body/semi-governmental organization/governmental agency. In this Framework Document, special attention is paid to the role of sponsoring bodies in the committee's activities.

<sup>23</sup> Latest publication. Climate Change Committee (UK). <https://www.theccc.org.uk/publications/>

<sup>24</sup> About the Climate change committee. <https://www.theccc.org.uk/about/>

<sup>25</sup> Cynthia Elliott, Clea Schumer, Katherine Ross, Juan Carlos Altamirano, Kelly Levin, Rebecca Gasper, and Kati Kulovesi. World Resources Institute (WRI) (2021). Climate Advisory Bodies: Experiences and Approaches for Effective Climate Change Policy. <https://www.climatecouncils.org/wp-content/uploads/2022/05/WRI-Climate-Advisory-Bodies-Report-Final-May-2022.pdf>

<sup>26</sup> Framework document Climate change committee. <https://www.theccc.org.uk/wp-content/uploads/2024/01/CCC-Framework-Document-January-2024.pdf>

The Committee's activities are supported by a large Secretariat (about 50 persons).<sup>27</sup> The Secretariat has a significant capacity and budget, and independently decides on its spending. The Committee's activities are funded by the Department for Energy Security and Zero Emissions, as well as the Department for Environment, Food and Rural Affairs and the administrations of Northern Ireland, Scotland and Wales.

### **Finnish Panel on Climate Change**

The Finnish Climate Change Panel is a scientific and independent panel of experts that supports climate policy planning and decision-making. Its role and tasks are defined by the Finnish Climate Act. The Finnish Climate Change Panel promotes a dialogue between science and policy on climate change issues. The Panel collects research data and provides recommendations to support decision-making. The government is not obliged to formally respond to the panel's expert opinions but often takes its views into account.<sup>28</sup>

The Finnish Climate Change Panel consists of 15 researchers appointed by the government for a 4-year term based on proposals from academic and research institutions. Its members work full-time at universities and research institutes, as well as part-time at the panel. Finland's Climate Change Act, which guarantees diversity of representation, explicitly requires that panel members come from different scientific disciplines. The Panel's activities are supported by a small secretariat (4 full-time experts).

The key functions of the Finnish Panel, in contrast to the UK, are somewhat narrower and focus mainly on:

- providing science-based recommendations and assessments that help the government to formulate effective climate policy;
- political support (crucial role in shaping Finland's climate goals);
- research (analysis of various issues related to climate change).

### **Climate change advisory bodies in the Federal Republic of Germany**

There are several advisory bodies in Germany that carry out independent scientific activities and develop recommendations for policy-making in the field of climate change and environmental protection. The German Advisory Council on the Environment was established in 1971.<sup>29</sup> In 1992, the Global Change Advisory Board was founded,<sup>30</sup> and in 2019, the Climate Change Expert Council was established, which is already dealing with a narrower area of climate policy.<sup>31</sup>

The German Advisory Council on the Environment is an independent body under the government. It has been advising the German government on environmental policy for over 50 years. The Council's membership of seven professors from various disciplines provides an independent and comprehensive assessment from a scientific and technical as well as a socio-scientific perspectives. The council's secretariat consists of 2 people, and the expert staff includes 3 additional people.

<sup>27</sup> About the Climate change committee. Transparency. <https://www.theccc.org.uk/about/transparency/>

<sup>28</sup> The Finnish Climate Change Panel. <https://ilmastopaneeli.fi/en/the-finnish-climate-change-panel/#:~:text=The%20Finnish%20Climate%20Change%20Panel%20is%20a%20scientific%20and%20independent,in%20the%20Finnish%20Climate%20Act>

<sup>29</sup> German Advisory Council on the Environment. [https://www.umweltrat.de/EN/home/home\\_node.html](https://www.umweltrat.de/EN/home/home_node.html)

<sup>29</sup> German Advisory Council on global change. <https://www.wbgu.de/en/the-wbgu/mission>

<sup>30</sup> The council of experts on climate change. <https://expertenrat-klima.de/en/about-us/members-of-the-council/>

<sup>31</sup> German Advisory Council on the Environment. [https://www.umweltrat.de/EN/council/office/office\\_node.html](https://www.umweltrat.de/EN/council/office/office_node.html)

The Federal Environmental Protection Agency provides legal and administrative oversight of the council, but respects its independence.<sup>32</sup>

The Global Change Advisory Council is an advisory body to the government. The scope of their expertise is broader and is not limited to climate change issues.

The council consists of 9 scientists representing different disciplines. Members are appointed by the German Federal Cabinet of Ministers for a four-year term. The Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection and the Federal Ministry of Education and Research fund the council and jointly exercise its leadership. Each member is supported by a personal research assistant. Although the council operates under public authority, its members must not belong to the government, civil service or legal entity of the Federal Republic or a state, nor to any legal entity under public law, except as university professors or employees of a research institute. They must also not be representatives of an economic association or organization of employers or employees, or be associated with them by the regular provision of services or tasks for their benefit. They must not have held any of these positions within the last year prior to their appointment as a member of the council.

The Secretariat (11 people) is the organizational center of the Global Change Council. It shares scientific expertise, coordinates processes, and organizes logistical workflows and events. In consultation with the Council, it develops formats for cooperation and communication, and is a point of contact for ministries, the press and the public.

The Global Change Council helps both responsible authorities and the general public to make informed and balanced decisions. Its main tasks are to analyze and report on global environmental and development issues, evaluate national and international research on global change, identify new problem areas as an early warning system, identify research gaps and provide incentives to the scientific community, analyze and evaluate national and international policies for sustainable development, develop recommendations for action and research, and raise awareness of global change through media and public relations.

The Global Change Advisory Board is responsible for publishing reports that<sup>33</sup>

- analyze global environmental and development issues;
- assess research on global sustainability, identify research gaps, and create incentives for research;
- point to emerging areas of concern, such as early warning systems;
- assess global sustainable development policy;
- provide recommendations for action and research.

Every two years, the council submits a report to the Federal Government, which provides recommendations on how to avoid or correct deficiencies. When the council prepares its reports, the Federal Government may express its own opinion on key issues arising from this task. The federal government may request the council to prepare special reports and opinions on specific topics.<sup>34</sup>

<sup>32</sup> German Advisory Council on global change. <https://www.wbgu.de/en/the-wbgu/mission>

<sup>33</sup> German Advisory Council on global change. <https://www.wbgu.de/en/the-wbgu/mission>

<sup>34</sup> The council of experts on climate change. <https://expertenrat-klima.de/en/about-us/members-of-the-council/>

The Council of Climate Change Experts plays an important role in monitoring Germany's policy on the implementation of the Federal Climate Action Act. It is bound only by the mandate established by the Federal Climate Change Act and is independent in its activities, including from political influence. The government is obliged to respond to the scientific conclusions of the Climate Change Expert Council.

The members of the Climate Change Panel are appointed by the German Federal Government for a five-year term.<sup>35</sup> The Panel (5 experts in the fields of climate, economics, law, energy and ecology) is supported in its tasks by a Scientific Staff headed by the Secretary-General.

The German Council of Climate Change Experts independently monitors the implementation of annual targets by economic sectors and evaluates corrective programs if ministries do not meet their targets. If a sector exceeds the limit and the council identifies it, the government must develop a corrective plan.<sup>36</sup> Thus, the Council of Climate Change Experts has a more supervisory and monitoring role.

The federal government receives the opinion of the Climate Change Panel on the main assumptions for reducing greenhouse gas emissions before taking the following measures: changing annual budgets/limits for greenhouse gas emissions; updating the Climate Change Action Plan; adopting climate change action programs.

Every two years, the Council of Climate Change Experts provides the Bundestag and the Federal Government with an expert opinion on the previous development of greenhouse gas emissions, trends in the total annual emission budgets, and the effectiveness of measures to achieve the targets set by federal law. In addition, the Bundestag or the Federal Government may commission the council to prepare special reports.<sup>37</sup>

**Countries' experience shows that there is no one-size-fits-all body for providing scientific support, and not all climate change advisory bodies function in the same way. The diversity is manifested in the creation of structures that are as independent as possible (the UK is an example), up to the existence of national advisory bodies that function within the government, take the form of inter-ministerial coordination committees or working groups that also include representatives of business and/or the scientific community or even trade unions. It is worth noting that to ensure the effective work of advisory bodies, it is necessary to ensure their independence and adequate financial support for their activities.**

<sup>35</sup> The council of experts on climate change. <https://expertenrat-klima.de/en/about-us/members-of-the-council/>

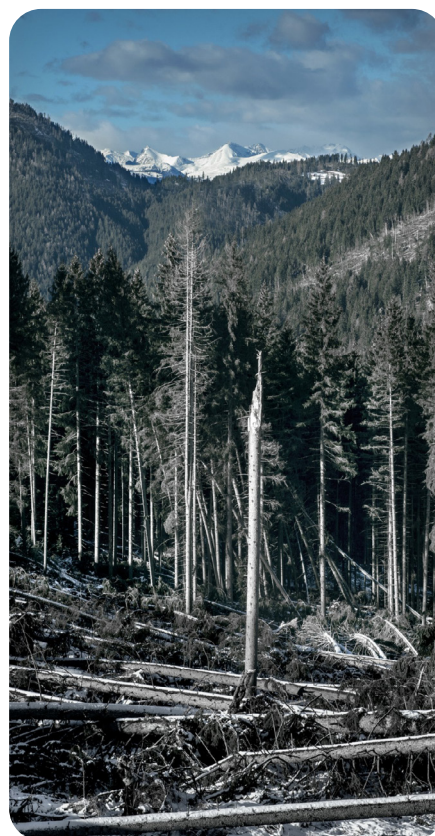
<sup>36</sup> The council of experts on climate change. <https://www.expertenrat-klima.de/en/about-us/>

<sup>37</sup> German Advisory Council on global change. <https://www.wbgu.de/en/the-wbgu/deed-of-establishment>

# Chapter 2. Legislative Framework for the Establishment and Functioning of Climate Change Advisory Bodies in Ukraine

The Climate Law of Ukraine lays down the legal framework for the establishment and functioning of consultative, advisory and scientific bodies that should play a key role in the development and implementation of the state climate policy. At the same time, the Law outlines only general approaches to their creation; further specification of their legal status is necessary for the full launch and effective operation of advisory and scientific bodies.

The principle of scientific validity in climate policy-making is laid down in international agreements on climate change (UNFCCC, Paris Agreement). The current legislation of Ukraine also provides the basis for engaging scientific potential to formulate state policy in the environmental sphere, including climate change. In accordance with Article 8 of the Law of Ukraine “On Environmental Protection”<sup>38</sup>, Ukraine conducts systematic comprehensive scientific research on the environment and natural resources in order to develop the scientific basis for their protection and rational use, and to ensure environmental safety. The results of these studies are coordinated and summarized by the Academy of Sciences of Ukraine and the central executive body that implements the state policy in the field of environmental protection. One of the objectives of the Strategy for Environmental Security and Climate Change Adaptation until 2030<sup>39</sup> is to improve the educational level and scientific and methodological support for making management decisions on environmental issues and implementing measures to adapt to climate change, and for this purpose, the Law of Ukraine “On the Basic Principles of the State Climate Policy” provides for the mandatory establishment of advisory bodies on climate change (Articles 6, 7).



It is worth noting that Ukraine has a regulatory framework for the establishment of various scientific and advisory bodies within the system of public authorities, for example:

- According to the Law of Ukraine “On Central Bodies of State Executive Power”<sup>40</sup> (Article 22, parts 6, 7, 8), permanent or temporary advisory, consultative and other

<sup>38</sup> On Environmental Protection. Law of Ukraine of June 25, 1991, No. 1264-XII. <https://zakon.rada.gov.ua/laws/show/1264-12#Text>

<sup>39</sup> Strategy of Environmental Security and Adaptation to Climate Change 2030. Approved by the Order of the Cabinet of Ministers of Ukraine of October 20, 2021, No. 1363-p. <https://zakon.rada.gov.ua/laws/show/1363-2021-%D1%80#Text>

<sup>40</sup> On central bodies of state executive power. Law of Ukraine of March 17, 2011, No. 3166-VI. <https://zakon.rada.gov.ua/laws/show/3166-17#Text>

auxiliary bodies may be established in the central executive body to consider scientific recommendations and conduct professional consultations on key issues of activity. The decision to establish or liquidate “other permanent or temporary consultative, advisory and other auxiliary bodies” is made by the head of the central executive body. The quantitative and personal composition of these bodies and their regulations are approved by the head of the central executive body.

- In accordance with the Law of Ukraine “On the Cabinet of Ministers of Ukraine”<sup>41</sup> (Article 48), the Government of Ukraine establishes temporary advisory, consultative and other auxiliary bodies to ensure the exercise of its powers. Civil servants, as well as members of the Parliament of Ukraine, scientists and other specialists may be involved in their work upon their consent. The tasks, composition and organization of the work of advisory, consultative and other subsidiary bodies are determined by the Cabinet of Ministers of Ukraine. To remunerate specialists involved in the work of advisory, consultative and other auxiliary bodies, funds may be allocated to support the activities of the Secretariat of the Cabinet of Ministers of Ukraine or the relevant central executive body.
- In accordance with the Regulation on the Ministry of Environment and Natural Resources (clause 14)<sup>42</sup>, other permanent or temporary consultative, advisory and other auxiliary bodies may be established within the Ministry of Environment and Natural Resources to consider scientific recommendations and conduct professional consultations on key issues. Decisions on the establishment or liquidation of the board, other permanent or temporary advisory, consultative and other auxiliary bodies, their quantitative and personal composition, and regulations on them are approved by the Minister.
- According to the Law of Ukraine “On Scientific and Scientific and Technical Activities”<sup>43</sup> (Article 18), the National Academy of Sciences may establish national branch academies of sciences as self-governing scientific organizations based on state property, which are state organizations established as non-profit state budgetary institutions. The national sectoral academies of sciences coordinate, organize and conduct research in the relevant fields of science and technology, and interact with the relevant public authorities to fulfill the tasks set by the state priorities in these fields. The activities of the national sectoral academies of sciences are coordinated by the CMU to the extent that they do not violate their self-governance.
- The Law of Ukraine “On Scientific and Scientific and Technical Expertise”<sup>44</sup> provides for the functioning of expert councils for scientific and scientific-technical expertise of projects of interstate and state target programs (Article 4) and state accreditation of individuals and legal entities for the right to conduct scientific and scientific-technical expertise. It can be carried out by scientific and scientific-technical institutions, enterprises and organizations of various forms of ownership and subordination, as well as specially created expert organizations whose statutory activities include scientific and scientific-technical expertise, at the initiative of individuals and legal entities interested in obtaining expert opinions (Article 7).

<sup>41</sup> On the Cabinet of Ministers of Ukraine. Law of Ukraine of February 27, 2014, No. 794-VII <https://zakon.rada.gov.ua/laws/show/794-18#Text>

<sup>42</sup> Regulation on the Ministry of Environmental Protection and Natural Resources. Approved by the Resolution of the Cabinet of Ministers of Ukraine No. 614 of June 25, 2020. <https://zakon.rada.gov.ua/laws/show/614-2020-%D0%BF#n13>

<sup>43</sup> On scientific and scientific and technical activities. Law of Ukraine of November 26, 2015, No. 848-VIII. <https://zakon.rada.gov.ua/laws/show/848-19#Text>

<sup>44</sup> On Scientific and Scientific and Technical Activities. Law of Ukraine of November 26, 2015, No. 848-VIII. <https://zakon.rada.gov.ua/laws/show/848-19#Text>

- The Civil Code of Ukraine (Art. 81) provides for the possibility of establishing legal entities of public law by an administrative act of the President of Ukraine, a state authority, an authority of the Autonomous Republic of Crimea or a local government body, which may include relevant advisory bodies in the field of climate change in Ukraine.

**The Climate Law of Ukraine provides for the establishment of three types of advisory bodies in the field of climate change among the subjects of the climate governance architecture**, devoting two basic articles to this issue:

- 1) consultative, advisory and other auxiliary bodies on climate change (CABs) - to achieve the goals of the state climate policy, to comply with the principles of good governance in the implementation of the state climate policy (part 1 of Article 6);
- 2) advisory, consultative and other auxiliary body on climate change - for effective coordination of the activities of executive authorities (part 2 of Article 6);
- 3) Scientific and Expert Council on Climate Change and Protection of the Ozone Layer - for the purpose of scientific support of the formation of the state climate policy, achievement of its goals, consideration of draft documents for planning the state climate policy, monitoring the implementation of state policies and measures, general scientific coordination and forecasting in the field of climate change (Article 7).

Both articles establish basic approaches to the functioning of these bodies. Thus, with regard to the functioning of the CABs, the law outlines general provisions for the system of such bodies, while with regard to the Scientific and Expert Council, it already details the purpose and tasks of its activities. However, this generalized approach of the legislator still allows us to draw a key conclusion - the law provides for the simultaneous functioning of different types of bodies, which are independent and separate from each other, and their functioning cannot and should not replace the activities of each of them.

The list of tasks of the Scientific and Expert Council is defined in part 5 of Article 7 of the Law. It is important to note that the list of tasks is not exhaustive; the specification of the tasks defined by the Law and the definition of other tasks not provided for by the Law should be made by means of the Regulation on the Scientific Expert Council. The Law details the procedure for performing certain tasks by the Scientific and Expert Council in relation to:

- Involvement of the Council in the development of sectoral program documents on climate change adaptation (Article 13);
- Assessing the implementation of the state climate policy and providing relevant recommendations (Article 23).

According to the current legislation, advisory bodies differ depending on the entities authorized to establish them:

- Sectoral CABs are established by central executive bodies;
- Coordinating CABs are created by the CMU;
- The Scientific and Expert Council has not been defined, but the CMU is authorized to approve the Regulation on the Scientific and Expert Council and its membership.

The legislator uses different approaches *vis-a-vis* the issue of mandatory creation of a system of advisory bodies. While establishing sectoral CABs is optional, establishing the coordinating CAB and the Scientific and Expert Council is mandatory.

The legislator also takes a different approach to defining the basic legal act that specifies the legal status of advisory bodies. In particular, with regard to:

- Sectoral CABs - the Law does not specify which act specifies their status. However, given that such bodies are established by central executive bodies, the latter are authorized to approve the necessary regulations. To ensure uniformity of the legal status, it would be advisable to develop a Model Regulation on such bodies, on the basis of which the central authorities would already adopt specific regulations on sectoral CABs;
- Coordinating CAB - the Regulation (composition and rules of procedure) should be approved by the CMU;
- Scientific and Expert Council - the Law provides for the adoption of the Regulation on the Scientific and Expert Council by the CMU.

Thus, independent advisory bodies in the climate governance architecture in Ukraine have the following features:

#### *Common features*

- ensuring the achievement of goals, implementation of the principles of the government climate policy and fulfillment of Ukraine's international commitments in the field of climate change;
- advisory and auxiliary nature of functioning in the climate policy architecture of Ukraine: this, in turn, implies the key responsibility of the state, not advisory bodies, in the formation and implementation of government policy in the field of climate change, while advisory bodies are a governance mechanism that helps and assists the state and its bodies in the formation of state climate policy;

#### *Differences*

- tasks assigned to advisory bodies - the main task of the CABs is to advise and coordinate the authorities, search for and solve problematic issues in the field of climate change; at the same time, the activities of the Scientific and Expert Council are one of the mechanisms of scientific support for state policy in the field of climate change;
- defining the legal status of advisory bodies - CABs are established by executive authorities (government, ministries, other central executive bodies), the main composition of which is formed from representatives of such bodies; the Law does not define the organizational and legal form of the Scientific Expert Council, although the term "body" is used in its name, but whether it is a separate legal entity, if so, whether it is a legal person of public or private law, in what form it should be established (institution, organization, etc.) is not defined.

In 2009, the Government of Ukraine defined<sup>45</sup> approaches to the types of subsidiary bodies of the CMU and their tasks. In particular, an auxiliary body of the CMU may be established as a "council" to study issues related to the implementation of government policy in a particular area. However, the Law establishes a different and much broader function of the Scientific and Expert Council - scientific support of the government climate policy, assessment of the government policy in the field of climate change and provision of recommendations.

<sup>44</sup> Issues of consultative, advisory and other auxiliary bodies established by the Cabinet of Ministers of Ukraine. Resolution of the Cabinet of Ministers of Ukraine of June 17, 2009, No. 599. <https://zakon.rada.gov.ua/laws/show/599-2009-%D0%BF#Text>

The CMU Resolution No. 599 (2009) outlines the powers that define the competence of the CMU to establish such a body:

- approval of the regulation on the advisory body;
- approval of the composition of the advisory body;
- approval of the head and deputy head(s) of the advisory body.

The Climate Law of Ukraine recognizes that CMU is responsible for as the first two components of the establishment of the Scientific and Expert Council, since it is the government that is empowered to approve the Regulation on the Council and its composition. However, this does not mean that the Scientific Expert Council as an advisory body, which is established by the Law, has the same legal status as the advisory bodies defined by the CMU Resolution No. 599 (2009). The Law does not in any way indicate that the Scientific and Expert Council is established as an advisory body to the CMU. It is also premature and unreasonable to assert that vesting a government body with the authority to approve regulations on a particular entity determines the latter's organizational and legal form. The government, including the CMU, may establish legal entities of both public and private law. According to part 2 of Article 167 of the Civil Code of Ukraine, it may establish legal entities of public law (state-owned enterprises, educational institutions, etc.) in cases and in accordance with the procedure established by the Constitution of Ukraine and the law.

The Scientific and Expert Council can potentially be established as a separate legal entity. This format of the Council has its advantages, including:

- Sustainability and stability of functioning - a legal entity is less dependent on political changes, administrative influence of the authorities, especially in cases of constant changes in the authorities or their leadership. This, in turn, reduces the risk of the Council becoming a subservient, controlled body, promotes the formation of an independent position, and increases the level of trust of stakeholders in its conclusions and recommendations;
- Institutional independence - a legal entity independently forms its structure, staff, areas of activity, cooperation, selection of partners and engagement of experts without the need for approval from the authorities, which increases the efficiency and quality of work. A separate legal entity independently raises funds from various sources (grants, donor programs, etc.), which expands its ability to accomplish tasks and reduces dependence on the state budget.

The experience of EU member states varies. However, for example, in the UK, the Climate Change Committee was established by the Climate Change Act, according to which it is an independent, statutory body - an institution (legal entity under public law) that is not part of any governmental authority, has its own account, submits financial statements and an audit report.<sup>46</sup>

**Thus, the regulatory basis for the establishment of a climate change advisory body in Ukraine is the current legislation, which provides for the involvement of scientific potential in the formation of public policy and creates the preconditions for the involvement of such**

<sup>46</sup> Annual Report and Accounts 2023-24. Climate Change Committee. December 2024. <https://www.theccc.org.uk/wp-content/uploads/2024/12/CCC-Annual-Report-And-Accounts-2023-24.pdf>

potential in the formation of sectoral policy in the relevant areas. The role, formation, and powers of this body should be separately regulated, taking into account the requirements and experience of European institutions. The need to establish a climate change advisory body is driven by its purpose, which is to provide scientific support to public policy, the need for scientific research to formulate Ukraine's policies and goals, which are constantly being revised and whose level of ambition should increase, in accordance with EU requirements, the cross-sectoral nature of climate policy, which cannot be limited to a narrow area of scientific knowledge, and the need to create a platform where experts from different fields formulate conclusions and provide recommendations for policy-making in a joint manner.

# Chapter 3. Concept for the Establishment and Functioning of Advisory Bodies on Climate Change

## 3.1. SCIENTIFIC AND EXPERT COUNCIL ON CLIMATE CHANGE AND OZONE LAYER PROTECTION

Ukraine transposed the provisions of the European Climate Law on the establishment of an advisory body responsible for providing expert scientific advice on climate policy by adopting the Climate Law in 2024. Ukraine voluntarily assumed the obligation and provided for the establishment of such a body in the form of the Scientific and Expert Council on Climate Change and Ozone Layer Protection. However, Ukraine's full implementation of the European Climate Law requires the adoption of the Regulation on the Scientific and Expert Council, the actual establishment of such a body and ensuring its operation.

The Climate Law of Ukraine contains provisions that provide a general understanding of the legal status of the Scientific and Expert Council. In particular, the Law defines

- 1) the purpose of the Council is to provide scientific support for the formation of government climate policy, achievement of its goals, review of draft documents for planning government climate policy, monitoring of the implementation of government policies and measures, general scientific coordination and forecasting
- 2) establishment of the Council as an independent body;
- 3) the Council as an advisory body;
- 4) the Council as a scientific and expert body;
- 5) tasks for which the Council is established.

It is worth noting that the Law does not provide for the Scientific and Expert Council as the only mechanism for scientific support of the state policy in the field of climate change. This conclusion can be drawn from the content of Part 3 of Article 7, which states that scientific support for achieving the goals of the state climate policy is carried out through cooperation with scientific institutions, international scientific organizations and experts.

However, for example, the role and tasks of scientific institutions and the Scientific and Expert Council in the formation of the state climate policy are not identical, so they should not substitute each other's activities. The main activity of a scientific institution is scientific and/or scientific and technical activity<sup>47</sup> (in particular, it may include climate change issues as part of such activity), while the creation and operation of the Council has a special purpose - to provide policy makers with a regular scientific assessment of the state climate policy and recommendations for its improvement.

<sup>47</sup> On scientific and scientific and technical activities. Law of Ukraine of November 26, 2015, No. 848-VIII. <https://zakon.rada.gov.ua/laws/show/848-19#n7>

Some of the tasks and powers of the Scientific and Expert Council are envisaged and specified in the articles of the Climate Law of Ukraine. For example, the Council's involvement in the development of sectoral program documents on climate change adaptation in the relevant sector of the economy and/or the relevant area of public policy (Article 13 of the Law). Article 23 is devoted to the Council's role in monitoring and evaluating the implementation of the state climate policy. In particular, the Council evaluates state policies for compliance with the goals and principles of the state climate policy, and based on its results, develops recommendations for appropriate measures and submits them to the Government of Ukraine and the advisory, consultative or other subsidiary body of the CMU on climate change. The results of the assessment are included in the annual report of the CMU on the progress and results of the implementation of the CMU Action Program and in the information submitted annually by the Government of Ukraine to the Verkhovna Rada of Ukraine on the progress and results of the implementation of policies and measures to mitigate the effects of climate change and adaptation to it.



The scope of functions and tasks assigned to the Scientific and Expert Council is quite broad, which will require significant resources (human, material, financial, etc.). In their absence or insufficiency, no group of scientists and experts will be able to provide effective scientific support and support for the state climate policy. In addition, for the proper organization of the work of scientists and experts, it is necessary to provide organizational support for their activities through the secretariat. The secretariat within the public authority will be characterized by permanence and stable financial support; the secretariat as a separate legal entity will need to address the issue of raising funds on an ongoing basis, unless such a legal entity is funded from the state budget. Without proper financial and organizational support, the Council's activities will become formal and sporadic. Therefore, it is worth considering all potential and existing mechanisms that would prevent the shortcomings in the Council's ability to fulfill its tasks.

The Climate Law of Ukraine does not contain any provisions defining the organizational and institutional elements of the establishment and functioning of the Scientific and Expert Council. Possible options for formalizing the legal status of the Council are discussed below.

### **3.1.1. LEGAL BASIS OF THE COUNCIL'S ACTIVITIES**

The legal status of the Scientific Expert Council on Climate Change and the Preservation of the Ozone Layer can be formalized in several ways:

#### **Option 1: Establishment of an independent advisory body**

It is recommended to establish an advisory body independent of any political influence as the best option that ensures the objectivity of the process of monitoring and formulating recommendations for the implementation of climate policy. Current Ukrainian legislation

allows (does not prohibit) the establishment of an advisory body as a separate legal entity.

### **Option 2: Establishment of an advisory body under the central executive body responsible for implementing climate policy (the Ministry of Environment) (as a transitional model)**

It is likely that at the initial stage of climate change advisory body's functioning, it will not have the status of a separate legal entity, as, for example, in the UK. Although this will deprive it of full independence at the initial stage of its functioning, on the other hand, this approach will save time and budgetary resources, facilitate the gradual accumulation of experience by this body, help determine the optimal model for Ukraine, and build public support and respect at the national and international levels. This model of the Scientific and Expert Council should be limited to a certain time frame, the end of martial law, etc., as a transitional model for the creation of an independent body in the future.

### **Option 3: Establishment of an advisory body under the CMU**

The advantage of establishing an advisory body under the CMU as compared to an advisory body under the Ministry of Environment is:

- Higher level of political authority (ensures greater weight of its recommendations and increases the likelihood of their implementation at the national level, given that such decisions may go beyond the powers of one ministry, as the conclusions of such an advisory body are submitted to the leadership and to the relevant ministries)
- Coordination of climate policy between different sectors (given the complexity of the climate change problem, which goes beyond the competence of one ministry, such a body can play a certain coordinating role between different ministries, evaluate/monitor the policies of different ministries related to climate change issues);
- The possibility of strategic planning at the state level, when the body under the Ministry of Environment will remain mainly within the environmental discourse;
- The existence of such a body signals a high level of political will to address global climate change issues at the international level (which will have a positive impact on international support, cooperation with international investors, etc.)

The creation of an advisory body under the CMU is accompanied by a number of difficulties and problems, both political and organizational: bureaucracy and length of the process; competition of powers between different ministries and the need to find consensus between representatives of different sectors whose interests may be in conflict; the threat of loss of independence by a body established close to the center of political decision-making, which is the CMU, and vulnerability to political pressure, given the appointment of members of the body by the government and the possibility of its use for providing so-called scientific justifications (whitewashing) of the political decisions.

The activities of the Scientific and Expert Council should be based on the following *principles*:

- independence in its work from other state authorities, political influences, interested business structures and other lobbying groups;
- scientific validity, innovation and relevance;

- interdisciplinary approach (integration of knowledge from different fields and synergistic approach to solving climate change problems);
- impartiality and integrity;
- openness of data, reports, scientific developments, etc;
- stakeholder engagement (involvement of representatives of stakeholder groups - business, local communities, industry, civil society, etc;)
- communication and dissemination of knowledge about climate change, including to gain credibility and trust among the public and decision-makers;
- international cooperation.

Each of the principles needs to be enshrined and specified at the regulatory level. Some of them are available in the Law, some are not, so the legal gaps need to be addressed in the future Regulation on the Council.

### **3.1.2. ORGANIZATIONAL PRINCIPLES OF THE COUNCIL'S ACTIVITIES**

The Scientific Expert Council may include:

- scientists in the scientific field related to climate issues;
- experts on the implementation of climate policy at the national and international levels;
- representatives of public authorities (ex officio membership);
- business representatives;
- representatives of the public.

*Types of membership* in the Scientific and Expert Council:

#### **Option 1: only scientists in the scientific field related to climate issues can be members of the Council (exclusively scientific representation)**

- A)** with the involvement of government representatives
- B)** without involvement of government representatives

The European Scientific Advisory Board on Climate Change is an example of a scientists-only body.

#### **Option 2: members of the council may be scientists in the scientific field related to climate issues and experts on climate policy implementation (scientific and expert representation)**

- A)** with the involvement of government representatives
- B)** without involvement of government representatives

#### **Option 3: The members of the council may be scientists in the scientific field related to climate issues, experts in climate policy implementation, and representatives of business and the public (broad representation of all stakeholders)**

The participation of business and civil society representatives in the work of the climate change advisory body can be very important, given their possible practical experience and expertise in the relevant field. Even an independent advisory body such as the UK's Committee on Climate Change has a somewhat broader membership, including experts in, for example, business and economics with previous experience in private companies, although the core composition and mandate is clearly focused on scientific expertise.

- A) with the involvement of government representatives
- B) without involvement of government representatives

It is worth noting that the participation of government representatives in a climate change advisory body weakens its independence. For example, in the UK, the participation of civil servants or politicians in such a body is unacceptable, precisely to ensure that it does not have any political influence.

As an optimal option, it is recommended to create a scientific and expert body on climate change, which includes scientists and experts, with possible involvement of representatives of the public and business, where necessary, in the opinion of the council members, to formulate relevant recommendations and provide information and take into account the opinion of the public and business. In our opinion, the participation of government representatives or ex officio membership in the council does not contribute to the independence and objectivity of the climate change advisory body.

*The membership* in the Scientific and Expert Council may be organized as follows:

**Option 1: elected (on a competitive basis);**

**Option 2: ex officio (appointment of heads of scientific institutions, representatives of public authorities, etc.)**

It is recommended that members of the advisory body be appointed on a competitive basis, as this will ensure proper representation of experts and scientists from various fields of knowledge in the council. In addition, ex-officio appointments will not contribute to the continuity of the council's work due to changes in the personnel policy among civil servants. Therefore, the Regulation on the Council should regulate the procedure for such a competitive selection of council members separately.

If the option of appointing some council members ex officio is selected, it is advisable to determine a share of council members elected through a competition (e.g., at least 50%).

It is important to determine the qualitative/professional requirements for members of the Scientific Expert Council in Ukraine. These requirements are more relevant to the case of elected members of the council, since, as noted above, in the case of their ex officio appointment, such requirements may not always be taken into account, which may worsen the quality of scientific and expert content of the advisory body when a formal approach to the formation of the council is applied.

Among the qualitative requirements that should be put forward at the stage of announcing a competition for the election of council members are:

- academic degree (mandatory or preferential requirement) - Doctor of Philosophy/ Candidate of Science and Doctor of Science;

- higher education at the master's level in the relevant field of knowledge;
- significant experience (at least 7 years) in areas related to climate change (participation in relevant research, projects, policy development, international events, such as meetings of the Parties to the UNFCCC, etc.)
- availability of scientific publications in areas related to climate change;
- other scientific achievements in areas related to climate change.

When in addition to candidates with a scientific degree other candidates are elected/appointed to the Scientific Expert Council, we believe that it is advisable to provide for a minimum number of such candidates in the council (for example, at least 60-70% of the council members with a scientific degree).

In addition, there may be general requirements (e.g., citizenship, lack of criminal record), ethical requirements (integrity, independence, lack of conflict of interest) and other additional requirements (e.g., foreign language skills, analytical skills, etc.) for candidates that should be taken into account when selecting them for the council.

Members of the Scientific and Expert Council should be elected in the following *key areas of expert specialization*:

- natural sciences (ecology, earth sciences, chemistry, biology)
- oil and gas and electrical engineering (nuclear power, heat power, energy efficiency, renewable energy sources)
- mechanical engineering, chemical and bioengineering, transportation, manufacturing and technology (industry, low-carbon technologies, greenhouse gas emissions trading, monitoring, reporting and verification of greenhouse gas emissions);
- agrarian sciences and food (agroecology, agriculture, land use, forestry, climate change adaptation)
- architecture and construction, civil engineering (climate change adaptation, urban planning, civil security);
- social and behavioral sciences, economics (ecological economics, circular economy, financing of sustainable development);
- law, management and administration (international law, environmental law, climate policy);
- information technology, electronics and communications.<sup>48</sup>

This list is not exhaustive and may be updated over time, which the Council has the right to decide on, depending on the request for certain information and research. Given the multidimensional nature of climate policy, the council should make efforts to ensure that the selected experts are competent in as many areas as possible related to climate change.

When establishing the Scientific and Expert Council, a balance of scientific areas of competence of the council members should be maintained. Given the interconnectedness

<sup>48</sup> Table of Correspondence between the List of Scientific Specialties (List 2011) and the List of Fields of Knowledge and Specialties which Higher Education Students are Trained in (2015 List). Approved by the Order of the Ministry of Education and Science of Ukraine of 06.11.2015 No. 1151 (as amended by the Order of the Ministry of Education and Science of Ukraine of 12.04.2016 No. 419). <https://zakon.rada.gov.ua/laws/show/z1460-15#n36>

of some climate policy areas, one member of the council can be an expert in no more than two areas/areas proposed above. To ensure maximum involvement of scientific potential on all issues related to climate policy making, no more than 2 experts in one area may be elected to the council. At the same time, in the case of election (rather than appointment) of council members, achieving such a balance and covering all areas of climate policy will be more likely than appointing all council members ex-officio.

In addition to the balance of areas of scientific expertise, when electing members of the Scientific Expert Council, it may be advisable to maintain a balance of universities/research institutions represented by the council members, gender balance and territorial balance to ensure representation of scientific potential from different parts of Ukraine.

The recommended number of board members is from 9 to 15, taking into account the expediency of an odd number to facilitate voting and decision-making by majority, and the need to cover all areas related to climate change, as described above. It would also be advisable to provide for the possibility of the council deciding on the need to increase the number of members in case there is insufficient expert capacity to cover all climate change issues or additional areas that require additional scientific and expert capacity are identified. Taking into account the experience of climate change advisory bodies in other countries, the council should be able to engage external experts/scientists to strengthen its expert capacity, if necessary, in carrying out certain examinations, formulating policy proposals, etc.



The Council should be competent to make decisions if it has at least 9 members elected for a 5-year term with the right to be re-elected no more than once or twice. If an insufficient number of members are elected/appointed, or if certain members cease to serve on the board for various reasons, it is advisable to announce an additional competition and elect/appoint new members.

The competition is open to all interested entities that meet the established criteria and conditions of the competition. The competition is organized and conducted by the body under which the council is established (the Ministry of Environment/Cabinet of Ministers - depending on the legal status of the advisory body), or in the case of an independent body, the competition is organized by the Cabinet of Ministers jointly with the Ministry of Environment; this body also approves the members of the council that wins the competition. After the Scientific and Expert Council is formed, subsequent competitive selections may be held with its participation, as members of the council may be members of the competition commission for the selection of new members. The announcement of the competition should be published on the websites of the central executive authorities exercising powers

in the field of climate policy, on the website of the established Scientific and Expert Council, the National Academy of Sciences of Ukraine, the Cabinet of Ministers, etc.

Eligible candidates for the Scientific and Expert Council in Ukraine may include scientists from the NAS of Ukraine and its institutes, the Ukrainian Hydrometeorological Institute of the SES of Ukraine and the NAS of Ukraine, the Institute of Geography of the NAS of Ukraine, the Institute of Environmental Problems and Environment of the NAS of Ukraine, the Institute of Environmental Economics and Sustainable Development of the NAS of Ukraine, higher education institutions, public organizations, etc.

The options *for electing the chairperson and vice chairperson/persons* of the Scientific Expert Council may include:

- election among the members of the council by the council itself, with or without further approval by the body under which the council was established
- submission of proposals for candidates from among the members of the council by the public authority (Ministry of Environment and Natural Resources/Cabinet of Ministers) with or without further approval by the members of the council;
- conducting a separate competition for the position of the chairman of the council and selecting a candidate on a competitive basis, including with the participation of council members who may be members of the competition commission.

For the Scientific Expert Council to function effectively, its activities should be supported by a permanent Secretariat. Obviously, the size and availability of financial resources for the functioning of the secretariat affects the efficiency of the council members' tasks. The proposed size of the secretariat is at least 3 people, with a recommendation to expand it to 10 full-time equivalent secretariat staff members who should support the activities of the council on a permanent basis.

In Ukraine, the function of *the secretariat* can be introduced by

- incorporating it into the Secretariat of the CMU/Ministry of Environment (in other words, new positions are created or new responsibilities are added to the functions of existing employees) (the most likely option and quickest to implement, but there may be obstacles related to the existing significant workload of existing staff, the need for training and gaining new experience); or
- an independent entity that operates under a public authority, has permanent funding, a high level of expertise, institutional stability, and financial and operational independence (the most effective option, but the most resource-intensive).

### **3.1.3. TASKS AND POWERS OF THE COUNCIL**

The scientific expert council may be vested with the following main functions:

- supervision (monitoring) of the implementation of climate policy and program documents in the field of climate change (clause 7, part 5, Article 7 and Article 23 of the Law);
- providing recommendations on the formation and implementation of climate policy and conducting research for this purpose, which should be the basis for recommendations on the formation of climate policy of Ukraine (clauses 2, 3 and 5 of Article 7 of the Law);

- coordinator and/or organizer of dialogue and cooperation between scientific institutions on climate change, facilitating the exchange of information on scientific achievements, dialogue to take into account the interests of stakeholders (business, interested public) in the formation of climate policy (part 4; paragraphs 4 and 6 of part 5 of Article 7 of the Law).

The scope of tasks that reveal the essence of these functions varies. The most important tasks reveal the Council's functions as an "advisor" (e.g., scientific support and proposals for achieving the goals of the state climate policy, climate change forecasting, providing conclusions, comments and proposals to draft documents on state climate policy planning) and "organizer (coordinator)" (in particular, facilitating the exchange of information on scientific achievements in modeling, monitoring and evaluation, advanced research and innovation, informing, raising public awareness and education on climate change issues). At the same time, it is the function of "observer/supervisor" that allows the Council to be different from other actors of climate governance in Ukraine (the scientific community, expert organizations, and the public, which to varying degrees provide scientific and expert support, recommendations to the authorities on the formation and implementation of state climate policy, and are engaged in educational and informational activities).

One of the key tasks should be the assessment of state climate policy planning documents. According to the Law, a comprehensive system of such documents should function in Ukraine, so there are several options for the Council to fulfill this task. In particular, the assessment of:

- all state climate policy planning documents adopted at the national (national and sectoral), regional and local levels. The main disadvantage of this option will be the Council's inability to cover the entire range of planning documents and provide a qualified support. It should also be taken into account that the Council is created at the national level, so the subject of its evaluation should be the documents adopted at this level. At the same time, this approach does not exclude the approach according to which the Council may assess other documents on its own initiative;
- only government climate policy planning documents adopted at the national (state and sectoral) level. Currently, the Law does not provide a clear answer as to which state climate policy planning documents the Council is authorized to evaluate. Therefore, the future Regulations on the Scientific and Expert Council and the Procedure for Monitoring and Evaluation of the Implementation of the State Climate Policy should specify the specific planning documents to be evaluated. The list of such documents can be left open (not exhaustive), which would allow for the assessment of documents whose adoption is not currently provided for by Ukrainian legislation.

The subject of the assessment should also be defined. The analysis of the Climate Law of Ukraine allows us to identify the following components of the assessment:

- compliance with the goals of the state climate policy. These should include goals set at the national level (for example, in the Climate Law of Ukraine, the Long-Term Low-Carbon Development Strategy of Ukraine, the National Energy and Climate Plan, and the Climate Change Adaptation Strategy), as well as at the sectoral level, as defined in sectoral program documents on climate change mitigation and adaptation;
- sufficiency and effectiveness of measures taken to achieve the goals of the state climate policy, both at the national and sectoral levels;

- Ukraine's fulfillment of its international commitments in the field of climate change. Given the European integration development and the process of Ukraine's accession to the EU, a section should be included on the compliance of Ukraine's state climate policy with EU climate policy and law.

It is necessary to resolve the issue of mandatory or voluntary assessment of the state climate policy by the Council. Taking into account that the Council's resources (institutional, organizational, human, financial, material) will always be limited, it is advisable to determine those documents of the state climate policy for which the Council is obliged to conduct an assessment, and the rest of the documents the Council may assess.

In specifying the legal status of the Scientific and Expert Council, it is also worth paying attention to the issue of conducting such an assessment "at the request" of authorized entities or on its own initiative. The Council's assessment "upon request" can be limited by two criteria: (1) the list of state climate policy documents that must be assessed and (2) the range of entities authorized to request an assessment (for example, to authorize only the CMU and the Parliament to do so).

The Council may carry out the assessment of the government climate policy on its own initiative in the following ways:

- mandatory - initiating and preparing an assessment on a regular basis;
- voluntarily - initiating an assessment on issues that, in the Council's opinion, are important but are not covered by the mandatory cases of assessment.

One of the tasks assigned by the Law to the Council is to provide conclusions, comments and proposals to draft documents on state climate policy planning submitted to the government. This task needs to be strengthened and brought to a new level, which would be proactive and preventive in the development and implementation of climate policy. In particular, a separate element should be included in the procedure of development, consideration and adoption of the CMU - the Council's mandatory examination of draft documents for their compliance with the goals of the state climate policy and Ukraine's international climate commitments. Already at this stage, the Council could provide science-based recommendations that would be taken into account when finalizing draft documents on state climate policy planning submitted to the government. Such an understanding of the task would contribute to the Council's effective work.

Another task assigned by the Climate Law of Ukraine to the Scientific and Expert Council is to provide scientific support and proposals for achieving the goals of the state climate policy, implementing policies and measures, scientific substantiation of climate change forecasting, ways and means of achieving the goals of the state climate policy. The peculiarity of this function is that an independent "third-party" entity provides a scientifically based vision of climate change issues and ways to solve them and taking into account its conclusions and recommendations in the formation and implementation of the state climate policy. Climate policy, like any policy, has its own cycle. Therefore, the Regulation on the Scientific and Expert Council should specify the possibility of involving its scientific recommendations and conclusions at all stages covering the cycle of formulation and implementation of the state climate policy. From the Council's initiation of consideration by, for example, the Cabinet of Ministers of Ukraine of climate change problems that require intervention and solution

by the authorities, to the stage of proposing ways and means of solving the problem and developing legal instruments to address the problem. The key challenge to avoid is turning the Council into one of the authorities tasked with developing relevant draft documents for planning the state climate policy. In other words, the Council should not be entrusted with functions and tasks that fall within the competence of the authorities.

An important element that will determine the effectiveness of the Scientific and Expert Council in Ukraine is the consideration by the authorities of its conclusions, recommendations and proposals in the formation and implementation of the state climate policy. The Council is an advisory body, so its decisions cannot be binding, which is inherent in government decisions. However, the principle of scientific validity of the state climate policy should determine the basis for the authorities to take into account the recommendations provided by the Council. In particular, it is recommended that the Regulation on the Scientific and Expert Council should provide for

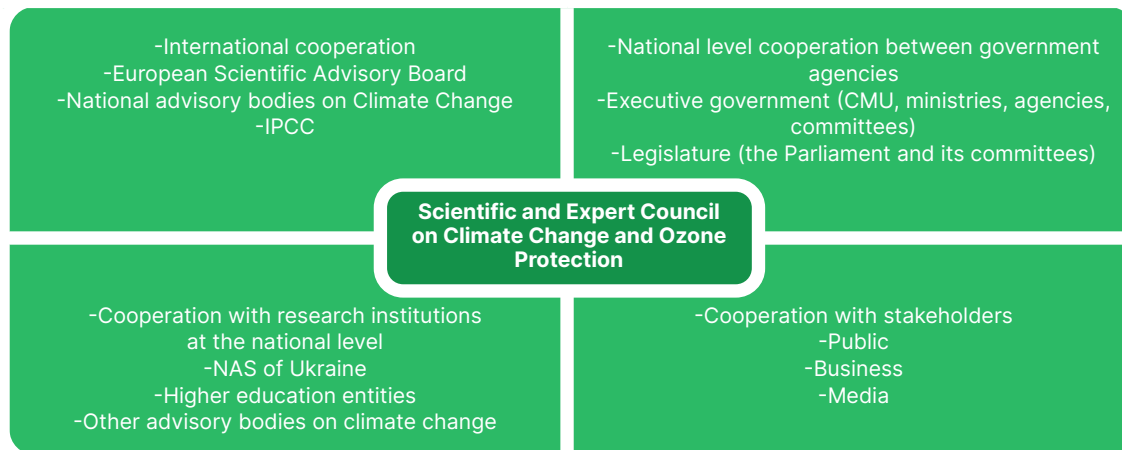
- cases of mandatory receipt of the Council's conclusions or recommendations before making key decisions in the state climate policy. For example, setting new or changing existing goals of the state climate policy (both national policy and sectoral policies);
- the procedure/order for mandatory consideration of the Council's conclusions or recommendations, and providing justification for the authorities' rejection of the Council's recommendations, as well as notification of the ways and measures by which the authorities will implement the Council's recommendations.

A separate type of decision that the Council is authorized to make is the recommendations adopted based on the results of its assessment of the state climate policy, in which it proposes measures to be taken. The legal requirements for such recommendations and the procedure for conducting the assessment are laid down in the Law and should be specified in the Procedure for Monitoring and Evaluation of the Implementation of the State Climate Policy, which should be approved by the CMU. This procedure should specify the mechanism for mandatory consideration of the Council's recommendations in case of inconsistency of state policies with the goals and principles of the government climate policy.

### **3.1.4. PLACE OF THE COUNCIL IN THE CLIMATE GOVERNANCE ARCHITECTURE OF UKRAINE**

The Scientific and Expert Council is a new entity in Ukraine's climate governance architecture, the formation and actual launch of which is still at the initial stage. However, it is already worthwhile to lay down approaches (in particular, in the Regulation on the Council) regarding its role, place and potential formats of cooperation with other actors and stakeholders in the process of formulating and implementing the state climate policy, its monitoring and evaluation. The Council's effective work requires systematic cooperation with all stakeholders - from government authorities to science, business, communities, the public, and international partners (Fig. 1).

Fig. 1 Cooperation of the Scientific and Expert Council on Climate Change and Ozone Protection



Such cooperation is required in different tracks: the Council's involvement in the work of the government authorities on climate change and the involvement of stakeholders in the Council's work.

The mechanisms of interaction between the Council and the authorities may include, but are not limited to, the following areas:

- participation of its representatives in interagency commissions and working groups established to coordinate climate change policies;
- inclusion of a representative of the Scientific and Expert Council in the activities of the coordinating CAB established by the CMU (currently, it is the Interagency Commission on Climate Change and Ozone Layer Protection) or mandatory involvement of the Council's representative in the meetings of the coordinating CAB in case of consideration of issues related to the subject area of the Council's activities;
- cooperation of the Council with the Parliament of Ukraine (including the initiation of parliamentary and committee hearings on climate change);
- the possibility of the Council's influence on the formation of the topics of state orders for scientific and technical (experimental) developments and scientific and technical products within the framework of cooperation with the Ministry of Education and Science of Ukraine.

The mechanisms of interaction with other stakeholders (science, communities, business, and the public) are mainly determined by the tasks assigned to the Council. In particular, informing, raising public awareness and education on climate change and its consequences, developing dialogue and cooperation between scientific institutions on climate change. The Scientific and Expert Council could serve as a platform (platform) that unites the scientific and expert community. In this way, it could function as a general scientific coordination and forecasting center for climate change, a communicator of the latest scientific developments, interdisciplinary cooperation, and broad public awareness of the state climate policy, current climate change issues, and ways to address them. At the same time, the Scientific and Expert Council should not replace the activities of scientific institutions and scientific self-governing organizations, such as the National Academy of Sciences of Ukraine. The Council's functionality is limited to its key tasks - scientific support and proposals for state climate policy, its implementation, monitoring and evaluation.

As an intermediary between science, government, and society, the Council can initiate public discussions, consultations, and engage experts from the civil society and business to develop a scientific and expert basis for public policy making. However, given the limited resources of the Council (especially at the initial stages of its activity), the performance of such a function should not interfere with the key function of monitoring and evaluation of the state climate policy implemented by various public authorities.

The Council's cooperation in the field of climate change at the international level, in particular with the IPCC, the European Scientific Advisory Board, as well as scientific and expert councils and other scientific advisory bodies established in EU member states and other countries, is important. It is especially valuable to exchange experience, scientific data and research with similar scientific advisory bodies/institutions in the field of climate change established in other countries.

### **3.1.5. FINANCING AND LOGISTICAL SUPPORT OF THE COUNCIL**

The effectiveness of the Scientific and Expert Council in fulfilling its tasks directly depends on the financial and logistical support of its activities. Since the Climate Law of Ukraine left these issues unaddressed, they should be reflected in the Regulation on the Council. In particular:

- identify sources of funding for the activities of the Scientific and Expert Council,
- covered items of expenditure (areas and needs that should be financially covered),
- material, technical and informational support.

The basis for financing the activities of the Scientific and Expert Council should be the diversification of its funding sources, which will reduce the risks of instability and unsystematic activities of the Council, as well as help attract additional resources for the implementation of the complex of tasks assigned to it. The sources of funding for the Council's activities may include:

- The state budget, which would be the main source of funding for the basic needs of the Scientific and Expert Council. In turn, such a source would ensure stability, predictability and accountability of expenditures, as well as institutional support. At the same time, the state budget as a source of funding can only be considered for the Scientific Expert Council, which will be established in the form of an advisory body to government authorities or state institutions. An example is ensuring the operation of the National Center for Greenhouse Gas Emissions Accounting, which gets its funding in the State Budget for each year and specifying financial flows in the budget program passport;
- international technical assistance can be an additional source of funding for the Council's activities, especially given the limited budget funding. Today, international technical assistance is an important source of funding that contributes to the implementation of key environmental and climate reforms in Ukraine (e.g., the introduction of a greenhouse gas emissions trading scheme, best available technologies and management practices).<sup>49</sup> Typically, the beneficiaries of such assistance are government agencies, including the Ministry of Environment, while recipients are a much wider range of entities, including research institutions, higher education institutions, NGOs, etc. International technical

<sup>49</sup> List of international technical assistance projects registered with the Secretariat of the Cabinet of Ministers of Ukraine as of 02.06.2025. <https://www.kmu.gov.ua/diyalnist/mizhnarodna-dopomoga/pereliki-zareyestrovanih-proektiv-z-planami-zakupivel>

assistance could support certain research areas of the Council's activities, increasing its flexibility in achieving its objectives. However, it cannot be the main or only source, as this approach will not ensure the stability of the Council's work.

The list of sources of funding for the Council should be open and based on the approach of admissibility of any sources not prohibited by law. Potentially, the funds accumulated (or planned to be accumulated) within specially created funds (e.g., the Fund for Decarbonization and Energy Efficient Transformation of Ukraine, the National Climate Fund) could be used.

Regarding the areas and funding needs to be covered, it is necessary to resolve the issue of payment or free of charge for the members of the Scientific and Expert Council to perform their tasks. In particular:

- the Council members performing its tasks on a voluntary basis or payment for the work performed (for example, proportional payment for the participation of members in meetings of the Scientific Expert Council, assessment of the state climate policy, forecasting in the field of climate change, conducting scientific research necessary to fulfill the tasks assigned to the Council). Both options are feasible, but they have both positive and negative aspects. While *pro-bono* work by members reduces the financial needs of the Council, it also limits the ability of members to devote sufficient time and resources to their duties, which will affect the quality of opinions and recommendations, as well as the ability to ensure the fulfillment of the full range of tasks assigned to the Council. Another option is to combine these two approaches to the paid or unpaid work of members, defining the cases of work for which members will be paid, while other types of work will be performed on a voluntary basis.

Such an approach does not exclude the possibility of engaging third-party expertise (development of scientific and analytical products, data evaluation, etc.), as well as other complex tasks that require significant human and financial resources. For example, one of the options for strengthening the capacity of the Scientific and Expert Council could be to use the capabilities of the Ukrainian Climate Office,<sup>50</sup> which will play an important role in addressing cross-cutting climate change issues.<sup>51</sup> Given that the Ukrainian Climate Office functions as an international technical assistance project, it can potentially be involved in substantive issues to be considered by the Council as a representative of donor support projects (if the donor support project can be involved in certain thematic meetings of the Council), and in the future, representatives of the Ukrainian Climate Office, as an independent institution, can be involved in thematic issues of the Council as experts;

- covering the expenses incurred by members in the performance of the Council's tasks (e.g., reimbursement of travel expenses, accommodation costs, access to paid databases, information);
- functioning of the Secretariat of the Scientific and Expert Council. The funding of the Secretariat will depend on the format in which it will be established. If the functions of the Secretariat will be performed by an official, structural unit of the government body or state institution under which the Scientific and Expert Council will be established, the costs of performing the functions of the Secretariat may be covered within the framework of financing the activities of such a government body or state institution. Nonetheless even in this case, the issue of finding additional funding for the additional scope of work is still relevant.

<sup>50</sup> The possibility of involving the Ukrainian Climate Office is being considered within the terms of reference for this study.

<sup>51</sup> Ukrainian Climate Office. <https://ukrainian-climate-office.org/about/>

Logistical and informational support is one of the factors that will affect the efficiency of the Scientific and Expert Council in fulfilling its tasks. It is important to ensure that the Council and its members have access to information, databases, registers, etc. necessary to perform tasks, prepare recommendations and conclusions based on objective information and data. In view of the above, the right of the Scientific and Expert Council to receive free of charge information and data necessary, in particular, for the assessment of the state climate policy, and the obligation of the owners, holders of such information and data to provide them at the request of the Council should be provided for at the regulatory level.

### **3.1.6 THE CAPABILITIES OF THE UKRAINIAN CLIMATE OFFICE TO PERFORM THE FUNCTIONS OF THE SECRETARIAT OF THE SCIENTIFIC AND EXPERT COUNCIL**

The issue of ensuring the functioning of the Scientific and Expert Council by its Secretariat is important. The capabilities of the Ukrainian Climate Office (UCO) to perform the functions of the Secretariat of the Scientific and Expert Council are discussed below.

Drawing inspiration from the UK Climate Change Committee, an independent statutory body supported by a professional Secretariat with a good reputation and a balanced structure, Ukraine could consider a similar model in the medium term. However, it is important to note that the UK Climate Change Committee operates with one of the highest levels of financial resources in Europe. Such a model requires constant and substantial financing, which is a challenging issue for Ukraine in the current context. This is why a transitional model has already been considered as a more realistic first step.

The Ukrainian Climate Office (UCO), once fully institutionalised as a Ukrainian entity, could serve as the Secretariat to the Scientific and Expert Council established under the Climate Law. This would ensure that the Council's scientific guidance is supported by a dedicated body with both technical expertise and operational capacity. UCO is already functioning as a platform for climate governance and possesses relevant experience in analysis, stakeholder coordination, and awareness-raising. Assigning the Secretariat role to UCO would create strong synergies between intersectoral coordination, scientific input, and the policy implementation cycle, all of which are essential for advancing Ukraine's climate neutrality pathway and EU accession. Institutionalisation is a crucial step, but it requires a clear vision and evidence of sufficient capacity before it can be undertaken.

To fulfil this function credibly and effectively, UCO must be recognised as an independent institution with a clear public mandate and sufficient autonomy. Only an independent UCO can ensure impartial, science-based support to the Council while also monitoring implementation and identifying gaps in climate policy. This independence would need to be accompanied by clearly defined responsibilities for the Secretariat, which should be laid down in regulatory documents. Importantly, as an independent government institution, UCO would be able to draw on both a stable baseline budget from the state and targeted donor funding for specific programs and capacity-building, creating a more sustainable funding model.

To initiate this process, a transitional arrangement could be considered, in which the UCO, currently an international technical assistance project, performs the Secretariat's functions under a delegated agreement or public-private partnership. This would allow UCO to build

<sup>52</sup> Some issues of the Ministry of Environmental Protection and Natural Resources. Resolution of the Cabinet of Ministers of Ukraine of June 25, 2020, No. 614 <https://mepr.gov.ua/wp-content/uploads/2025/02/Struktura-Ministerstva-zahystu-dovkillya-ta-pryrodnyh-resursiv-Ukrayiny.pdf>

up relevant procedures, staff capacities, and trust, while a formal legal basis for its future independent status is developed. During this phase, clear roles, outputs, and safeguards would ensure effective delivery while respecting the Council's statutory independence. The idea of a transitional/pilot period is particularly relevant given that it is not always possible to transpose even ideal models directly into Ukraine's realities, especially in the context of war, ongoing reforms, and scarce financial resources.

In the longer term, once UCO is formally established as an independent Ukrainian institution, its mandate could explicitly include functions such as monitoring implementation of climate policy, identifying legislative and institutional gaps, and supporting public communication and scientific outreach. Its independence is essential to provide credible advice, build public trust, and align with best practices in European climate governance. At the same time, it is important to emphasise that the Secretariat would not replace the Scientific and Expert Council: their roles are different, with the Secretariat serving as the support body for the Council. This institutional evolution would allow UCO to act not only as an operational Secretariat but also as an independent centre of excellence, a model well aligned with European climate governance standards.

### **3.2. ADVISORY OR OTHER SUBSIDIARY BODIES ON CLIMATE CHANGE**

**The Climate Law of Ukraine provides for the possibility of functioning of a system of advisory, consultative or other subsidiary bodies on climate change established by central executive bodies, as well as the establishment of an advisory, consultative or other subsidiary body on climate change established by the CMU for effective coordination of executive authorities (parts 1, 2 of Article 6). The Law does not contain provisions that specify the status of such subsidiary bodies, and the existing minor provisions will need to be specified in bylaws.**

Regarding advisory bodies that may be established by CEBs, issues such as the legal nature of the advisory bodies to be established, the feasibility and necessity of their creation need to be addressed.

The question arises whether they can/should be established as separate advisory bodies whose main subject matter is climate change, or whether they are established as advisory bodies with climate change as one of their issues. The positive aspect of establishing separate advisory bodies is that they focus on climate issues in sectoral policies. A weakness is the need to determine the synergy, coherence and interconnection of climate change issues and the activities of such bodies with the activities of advisory bodies established to support the formulation and implementation of sectoral policies of the state.

<sup>53</sup> Structure of the Ministry of Environmental Protection and Natural Resources of Ukraine. Approved by the Minister of Environmental Protection and Natural Resources of Ukraine on February 6, 2025. <https://mepr.gov.ua/wp-content/uploads/2025/02/Struktura-Ministerstva-zahystu-dovkillya-ta-pryrodneyh-resursiv-Ukrayiny.pdf>

<sup>54</sup> National Energy and Climate Plan 2030. Approved by the Order of the Cabinet of Ministers of Ukraine No. 587-p dated June 25, 2024. <https://me.gov.ua/view/bb0b9ef5-ea96-4b8a-8f2f-471faf32c9df>; On the Establishment of the Interagency Working Group on the Preparation of Proposals and Recommendations for the Development of the National Energy and Climate Plan. Resolution of the CMU of August 19, 2023, No. 924. <https://zakon.rada.gov.ua/laws/show/924-2023-%D0%BF#Text>

<sup>54</sup> Regulation on the Ministry of Economy of Ukraine. Approved by the Resolution of the Cabinet of Ministers of Ukraine No. 459 of August 20, 2014 (as amended by the Resolution of the Cabinet of Ministers of Ukraine No. 124 of February 17, 2021). <https://zakon.rada.gov.ua/laws/show/459-2014-%D0%BF#Text>

The Climate Law of Ukraine establishes the right of CEBs, but not the obligation, to establish advisory bodies on climate change. This approach of the legislator does not contribute to the implementation of one of the principles - the integration of the state climate policy into all sectors of the economy and all areas of public policy.

There are also several issues regarding *the feasibility and necessity of establishing advisory bodies on climate change* that need to be addressed in view of the effectiveness of the system of advisory bodies established by the CEBs. Although the Law provides for the possibility of establishing advisory bodies, to address this issue, it is necessary to proceed from the approaches of expediency and necessity of establishing such bodies. In particular, is it advisable to establish an advisory body on climate change by the Ministry of Environment? The answer to this question is negative rather than positive. Among the functional powers of the Ministry is the formation and implementation of the state climate policy (part 4 of Article 5 of the Law and Regulation on the Ministry<sup>52</sup>). To exercise these powers, the Ministry has created separate structural units responsible for the development of climate policy in general. In particular, the Division of Climate Change.<sup>54</sup> In other words, the Ministry of Environment already has the authority to implement measures to formulate and implement state climate policy. The Ministry of Environment should not waste its scarce resources on the multiplication of advisory bodies, but focus on strengthening its role in the advisory body on climate change to be established by the CMU, thus promoting the principle of integration of the government climate policy.



Today, a number of Ukrainian ministries have key powers in formulating sectoral state policies that have a direct impact on the state climate policy. For example, the Ministry of Economy of Ukraine coordinated the development of the National Energy and Climate Plan for the period up to 2030,<sup>54</sup> although climate change issues are not among the latter's tasks.<sup>55</sup> The activities of other ministries (Ministry of Energy, Ministry of Development, Ministry of Agrarian Policy, etc.) will also have an impact on climate policy. Therefore, in this case, the expediency and necessity of establishing advisory bodies should be considered not as a right, but as an obligation of such central executive bodies.

It is recommended to provide for two mechanisms for establishing advisory bodies on climate change:

- mandatory creation of climate change advisory bodies by CEBs, the list of which is defined by the Law. In this case, part 1 of Article 5 will need to be revised;
- voluntary creation of advisory bodies, which will apply to other CEBs that are not included in the above list.

It would be advisable to guarantee the right of CEBs to choose the formats in which advisory bodies may be established (separate specially created advisory bodies on climate change,

inclusion of climate change issues in the subject area of advisory bodies established to support sectoral government policies).

Along with the establishment of advisory bodies by CEBs, the Law provides for the establishment of one more advisory body on climate change - the coordinating CAB, which is to be established by the Government of Ukraine and approves the Regulation on it.

As with the sectoral CAB bodies, there are a number of issues that need to be addressed *to ensure the effective functioning of the advisory body to be established by the CMU. In particular, it concerns the political and legal level at which the body is established.* The Climate Law of Ukraine does not provide an answer to this question (which is reasonable given the autonomy of the Government of Ukraine to determine its system of executive authorities), so it should be reflected in the Regulation on this advisory body.

Currently, the Regulation on the Interagency Commission on Climate Change and Ozone Layer Protection is in force, which is a temporary advisory body established to ensure coordination of actions of executive authorities in implementing the state policy in the field of climate change and ozone layer preservation, as well as fulfillment of Ukraine's international commitments in the field of climate change. In fact, the Commission is created at the ministerial level, as it is chaired by the Minister of Environmental Protection and Natural Resources, and its members are mostly deputies of the relevant ministries. The Government of Ukraine is represented in the Commission by a representative of the Secretariat of the Cabinet of Ministers of Ukraine, which is not empowered to formulate, define and implement government policy.


The Interagency Commission can be considered the initial stage of the functioning of advisory bodies on climate change. Therefore, the experience of its functioning and the attempt to unite representatives of different ministries on one platform is undoubtedly positive. On the other hand, the experience of this commission is not always positive due to the lack of trust, formal approach to meetings, high turnover of personnel who are members of the commission, given that the members were ex officio members of the ministries, who also changed frequently, and, as a result, the lack of institutional memory in the work of the commission, which were obstacles to its effectiveness.

It is recommended to revise the current Regulation on the Interagency Commission on Climate Change and Ozone Layer Preservation or adopt a new Regulation on the advisory body, the creation of which is provided for in Article 6 of the Law. In particular, we recommend to provide for:

- creation of an advisory body at the governmental level, headed by the First Vice Prime Minister of Ukraine, with the Minister of Environmental Protection and Natural Resources as its first deputy and ministers of relevant ministries as members
- creation of a permanent advisory body on climate change (not a temporary one, as it is currently defined for the Commission);
- forms of cooperation with the Scientific and Expert Council (e.g., through participation of its representative in meetings of the advisory body, provision of recommendations to be considered by the advisory body);
- composition (with regard to the coordinating body).

## CONCLUSIONS:

- 1) It is necessary to adopt bylaws to fill in the gaps in the legal status, establish and ensure the effective functioning of advisory bodies. In particular, it is necessary to adopt:
  - A model provision on the CABs in the state's sectoral policies, based on which the central executive authorities could approve special provisions for specific sectoral CAGs. Such an approach would preserve a unified approach to the legal status of these bodies, while ensuring that the specifics of their activities are taken into account in the relevant sectoral state policies;
  - Regulation on the coordinating CAB in the field of climate change. The Government of Ukraine may adopt a new legal act or update the existing act on the Interagency Commission on Climate Change and Ozone Protection. The adoption of such a legal act is critical to ensure that the system of advisory bodies to the executive authorities in the field of climate change is updated;
  - Regulation on the Scientific and Expert Council. According to Art. 7 of the Law, the Regulation on such a council is approved by the CMU. The Regulation should specify the legal status of the council, its organizational and legal forms, the procedure for its establishment, its tasks and powers.
- 2) The Regulation on the Scientific and Expert Council should be based on the principles laid down in the Climate Law. At the same time, it is necessary to specify the content of the provisions on the Council's tasks and eliminate legal gaps in the legal status of the Council.
- 3) When adopting the relevant regulation, it should be borne in mind that it is adopted on the basis of the Law of Ukraine "On the Basic Principles of State Climate Policy", for the purpose of its implementation and must comply with the law and not contradict its requirements. In particular, in terms of the purpose of establishing the Scientific and Expert Council, its tasks and powers, and other provisions that determine its legal status. These provisions of the Law are the framework for the competence of other lawmakers to regulate a particular issue in a bylaw. At the same time, the Law does not provide a clear understanding of the model of the Council to be established in Ukraine. Therefore, the developers of a bylaw that will define the appropriate model of the Council, but will need to go beyond the legislative provisions, should remember that it will be necessary to amend the Climate Law of Ukraine first.
- 4) At the regulatory level, the principle of independence in the activities of the Scientific and Expert Council should be clearly enshrined and detailed. Given the essence of this principle, the Council should be established as a body that is independent of any influence (including political influence, influence from the authorities, etc.). However, the practical launch and further functioning of such a body will require considerable time, as well as the experience of such a body, which will give an understanding of the positive aspects in the implementation of its functions, as well as the challenges and legal gaps that need to be addressed. Ukraine is facing timing challenges due to its European integration processes and the practical fulfillment of its obligations (in particular, Ukraine's accession to the EU, implementation of the Ukraine Plan under Ukraine Facility). Therefore, a potential solution to this challenge could be to introduce a transitional period during which the Scientific and Expert Council could be established under a government agency, such as the Ministry of Environment or the Cabinet of Ministers.

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- 5) The Regulation on the Scientific and Expert Council should provide for forms of cooperation with government authorities, advisory bodies on climate change, scientific coordination with them and other stakeholders.
  - 6) To ensure the effectiveness of the Scientific and Expert Council, it is necessary to provide funding for its activities to cover the costs of the secretariat and scientists and experts participating in the Council's activities. For example, such funding could be provided on an annual basis by approving a budget program passport to support the activities of the Scientific and Expert Council.



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